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## UNITED STATES DISTRICT COURT

## DISTRICT OF OREGON

UNITED STATES OF AMERICA,	)	Case No. 05-cr-60008-HO
	)	
v.	)	EX PARTE MOTION FOR ISSUANCE
	)	OF TRIAL SUBPOENA AND SERVICE
PIROUZ SEDAGHATY,	)	IN FOREIGN COUNTRY
	)	
Defendant.	)	

The United States, by Dwight C. Holton, United States Attorney for the District of Oregon, through Christopher L. Cardani and Charles F. Gorder, Jr., Assistant United States Attorneys for the District of Oregon, hereby moves this Court for the issuance of a trial subpoena to Radmila Balobina, a national of the United States who resides overseas. This motion is based upon Title 28, United States Code, Section 1783, Federal Rule of Criminal Procedure 17(e)(2), and Federal Rule of Civil Procedure 4(f).

## I. BACKGROUND

Trial is currently set in this matter for June 7, 2010. The Court is well aware of the factual allegations set forth in the indictment, as well as the charges. Investigators have learned that Radmila Balobina, who is one of defendant Pirouz Sedaghaty's former wives, is currently residing at an unknown location in Egypt. Investigation has determined that Balobina, using the e-mail alias, "ptichka," was providing translation services for the website known as Qoqaz.com during the period relevant to the transaction in question in the Sedaghaty indictment. It is believed that, when she was providing these services, Balobina was residing with defendant Sedaghaty in Ashland, Oregon. The Qoqaz.com website was used by the mujahideen in Chechnya to deliver pro-mujahideen messages to interested followers around the world. Balobina's testimony may be pertinent at trial because she may be able to provide insight to Sedaghaty's knowledge, intent and willfulness regarding the ultimate destination of the funds in question in the indictment.

If Balobina can be located, she may be called as a government witness at trial. By this motion, the government seeks a court order issuing a trial subpoena on Balobina, and authorizing its service overseas.

## II. APPLICABLE LAW

### A. The Court Has Discretion to Order the Appearance of a United States Citizen Who Resides Outside the United States

Federal Rule of Criminal Procedure 17(e)(2) provides that the service of trial subpoenas overseas on witnesses in criminal cases is governed by Title 28, United States Code, Section 1783. Title 28, United States Code, Section 1783(a), provides in part as follows:

A court of the United States may order the issuance of a subpoena requiring the appearance as a witness before it . . . of a national or resident of the United States who is in a foreign country . . . if the court finds that particular testimony . . . is necessary in the interest of justice . . . .

The issuance of a subpoena to a United States citizen overseas is committed to the discretion of the court. *In re Thompson*, 213 F. Supp. 372, 374 (S.D.N.Y. 1963). Here, as summarized above, it is believed that Balobina provided translation services for a pro-mujahideen website while residing with defendant Sedaghaty. This testimony would bear on Sedaghaty's knowledge, intent and willfulness concerning the delivery of the funds in Chechnya. Her testimony, therefore, is in the interest of justice.

**B. Service of the Subpoena**

Title 28, United States Code, Section 1783(b), provides in part as follows:

The subpoena shall designate the time and place for the appearance . . . . Service of the subpoena . . . shall be effected in accordance with the provisions of the Federal Rules of Civil Procedure relating to service of process on a person in a foreign country. The person serving the subpoena shall tender to the person to whom the subpoena is addressed his estimated necessary travel and attendance expenses, the amount of which shall be determined by the court and stated in the order directing the issuance of the subpoena.

Federal Rule of Civil Procedure 4(f) governs the service of process on individuals in a foreign country, providing a number of alternative means of service and including any means directed by the Court which is not prohibited by international law. The government proposes that service of the subpoena be provided by a representative of the United States Embassy in Egypt, and that the government be required to provide the witness with a round trip air ticket and a \$100 cash advance on expenses. A proposed order is submitted

herewith.

### III. CONCLUSION

For the reasons stated above, the Court should authorize the issuance of a trial subpoena to Radmila Balobina.

DATED this 14<sup>th</sup> day of April, 2010.

Respectfully submitted,

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